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DEPARTMENT OF ENVIRONMENTAL QUALITY
THE DOW CHEMICAL COMPANY

TOWN HALL MEETING ON
PROPOSED ONGOING COMMUNITY INVOLVEMENT PROCESS

HORIZONS CENTER, SAGINAW
AUGUST 25, 2005
6:30 - 8:30 p.m.

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2 MR. NELSON: My name is Chuck Nelson. I am
3 the facilitator for tonight's community meeting
4 talking about the ongoing community involvement
5 process. I'd like to start out tonight's meeting by
6 calling your attention to the ground rules that are on
7 the back of your agenda. Those ground rules are very
8 simple and straight forward. They encourage you to
9 show politeness to people, to listen, to show respect,
10 to kind of do things in turn so everybody gets their
11 fair chance to have their say. We don't have a really
12 large group tonight but we have a decent size group.
13 I would still like to go around and do introductions
14 very briefly so everybody kind of knows who everybody
15 is and where they're from.

16 (Introductions were made)

17 MR. NELSON: As you'll note on the agenda,
18 what we're going to do here, the DEQ will start off
19 and talk about their facility policy. Director Steve
20 Chester will do that, and then John Musser is going to
21 talk about Dow's interim response activities. Then
22 we'll go on to the proposed community involvement
23 plan. Deputy Director Jim Sygo of the DEQ will do
24 that. Then we'll have an opportunity for discussion
25 and questions. We'd like to go through the power

1 point and save all those questions for discussion and
2 questions.

3 First, when we do questions, we'll try to deal
4 with questions that relate to the facility policy and
5 Dow's interim actions. Then we'll go on to community
6 involvement and kind of where do we go from here. So
7 I look forward to your participation and, please,
8 remember the ground rules. Let's all be civil and do
9 our best to have everybody get a fair hearing here.
10 So Director, are you ready to go?

11 MR. CHESTER: Well, good evening. I really
12 appreciate you all coming out this evening to share
13 with us your comments and questions regarding the
14 topics that we're going to be discussing tonight, and
15 what I'd like to do is start out by giving you a brief
16 summary of a directive that we recently issued
17 internally to staff to provide them guidance on how
18 they communicate with the public with respect to
19 contaminated property. Let me give you a little bit
20 of background with respect to this issue.

21 First of all, the term facility is a term that is
22 used under Michigan's clean up law, and it simply
23 means that a piece of property contains contamination
24 that exceeds certain clean up standards. It's kind of
25 a term of convenience used under the statute. June of

1 2003, we issued a brochure to about 2,000
2 Tittabawassee flood plain property owners, and the
3 brochure was intended to provide general information
4 on Michigan's clean up law to describe, for instance,
5 what the term facility means and to talk about what
6 the affirmative obligations of liable parties are,
7 including the obligation that if, in fact, a liable
8 party causes contamination to exist on a residential
9 property owner's property that that liable party has
10 an obligation to remediate the contamination and so
11 forth.

12 Unfortunately, the mailing resulted in a
13 consequence we hadn't anticipated. As I said, it was
14 meant to provide general information, but some
15 property owners interpreted the brochure in a way they
16 concluded that the DEQ was telling them their property
17 was a facility and contaminated, and that's not what
18 we intended at all. This raised some concern for not
19 just the residents but also Representative Moolenaar
20 who approached us some time ago and asked us to address
21 that issue. Now in truth, what happened most of 2004
22 we spent in discussions with Dow on how we were going
23 to move forward, and ultimately, those discussions
24 resulted in the framework that we entered into, both
25 Dow and DEQ, and we simply didn't get around to this

1 issue.

2 More recently, Representative Moolenaar once
3 again expressed an interest on his part to have the
4 DEQ address this issue and ameliorate some of the
5 concerns that the Tittabawassee flood plain homeowners
6 had with respect to the mailing we had done in June of
7 2003. So we've done that. We put together a
8 directive to staff, and I'm going to talk a little bit
9 about the major provisions of that directive, and in
10 fact, in its draft stage, we sat down with
11 Representative Moolenaar as well as Senator Goschka
12 and explained to them what we were doing with this
13 policy directive and how we felt this would be
14 responsive to the concerns of the property owners and
15 also clearly articulate when property from our vantage
16 point -- from the DEQ's vantage point -- would be
17 considered a facility.

18 Well, first of all, one of the things that we did
19 is we clarified in the policy a question we've often
20 heard. If I've got, for instance, a five acre lot and
21 there's contamination on a small portion of that, a
22 half an acre or an acre, does that mean my entire
23 property is a facility, and the directive clarifies
24 that, no, that's not the case. The part that would be
25 considered a facility is the part that's actually

1 contaminated. So that's one thing it does. In
2 addition to that, we clearly identified for the
3 benefit of the staff those circumstances under which
4 they could communicate with the public regarding
5 residential homeowners property and whether or not
6 that property was a facility.

7 And this particular slide identifies the three
8 circumstances. First of all, if there is, in fact,
9 available data -- soil or ground water data -- for the
10 property that indicates contamination exists above
11 certain clean up standards, then, yes, in fact, that
12 property would be a facility. The second circumstance
13 would be where a property was identified by a liable
14 party as a property that needed some form of
15 remediation, whether that be an interim measure or a
16 longer term remedial action, and that property was
17 identified in a work plan that was approved by the
18 Department, then it would qualify as a facility, and
19 then the third would be where based on existing data
20 the Department would draw a reasonable inference and
21 conclude that the property was contaminated and thus a
22 facility, even though we might not have data specific
23 to the property.

24 And I want to give you a couple of examples. One
25 example would be, and it's a fairly common example, if

1 we go out to a property and there are 55-gallon drums
2 that have been dumped on their side and the contents
3 are leaking onto the ground and we know those contents
4 are hazardous substances, we don't need data to prove
5 or to establish the property is contaminated. We can
6 reasonably infer from the conditions that the property
7 is, in fact, contaminated. Another example is ground
8 water contamination, another very common example in
9 the State of Michigan. You might have two wells.
10 Let's say they're located apart from each other
11 100 yards or 500 yards, whatever the distance, and you
12 know ground water flows from well A to and past well B
13 and you've got ground water samples from both wells
14 and they show that ground water exceeds contamination
15 levels. It's reasonable to include or infer that all
16 of the ground water flowing beneath the various
17 properties between well A and well B are, in fact,
18 that ground water is contaminated and thus the
19 properties are a facility under our -- Michigan's -- clean
20 up law.

21 (Example map 1) Let me give you an example
22 that's closer to home, and this involves the
23 Tittabawassee flood plain, and I've got a series of
24 maps here that I want to describe a little bit. As it
25 works out, we have a fair amount of data in what we

1 call the repeatedly flooded areas along the
2 Tittabawassee River. These are areas that were most
3 recently flooded as part of the 7 to 10 year flood
4 that occurred in March of 2004. There's really two
5 lines. This line here, the blue line, to the river
6 reflects the repeatedly flooded area, and then you can
7 barely make it out, but this edge, this pink line,
8 would be the 100 year flood line, and our data shows
9 us that -- keep in mind our residential clean up
10 criteria is 90 parts per trillion -- our data shows
11 that this side of the repeatedly flooded line has high
12 levels, 408, 2534, 1236 parts per trillion, but once
13 you cross that line, the data and the contamination
14 levels drop off dramatically. For instance, this
15 point is down to 29 parts per trillion, which is below
16 the 90 parts per trillion.

17 (Example map 2) Similar circumstance here, you
18 have the repeatedly flooded areas. Here you have the
19 100 year flood line, and the data shows that if you're
20 on the right side of the frequently flooded line
21 you're at elevated levels of dioxin, 369, 922 parts
22 per trillion, but then as you move to the left towards
23 the 100 year flood line, it drops off dramatically to
24 26 parts per trillion and 4.

25 (Example map 3) Similar situation where you have the

1 frequently flooded or repeatedly flooded line down to
2 the river. You have 1100, 852, 94, and then as you
3 cross that line it drops off dramatically. In this
4 case, we have a data point of 49 and then you have
5 some other points over here, 900, 400, 559.

6 (Example map 4) The topography is a little more
7 complicated. I believe this is a school, and the line
8 is here, and when you're on the far side of that line,
9 in other words, you're in the repeatedly flooded area,
10 you have elevated levels again of 1526, but once you
11 get away from that line where you have elevated soil
12 conditions, you see it drops off pretty dramatically,
13 4, 3, 5 parts per trillion.

14 (Example map 5) And now let me show you Midland.
15 There are three areas in Midland that have been
16 identified by Dow as Priority 1 areas. They're part
17 of an approved work plan and they require interim
18 measures to be implemented in these areas. Corning
19 Lane, which is directly east of the Dow Chemical Plant,
20 and then the area east of Corning lane and then this
21 bullet shaped property up here north of the property.
22 All told there are about 103 residential properties in
23 those areas, and we have data points that are near
24 these areas that are all well in excess of 90 parts
25 per trillion. The point being that in the

1 Tittabawassee flood plain area in particular it's
2 reasonable to conclude based on the existing data that
3 property located within the frequently flooded or
4 repeatedly flooded area would be a facility and would
5 exceed the 90 parts per trillion. In this area, you
6 have both properties identified as Priority 1 areas,
7 but also, the data would suggest again that it's
8 reasonable to conclude that these very nearby
9 properties to the Dow Chemical facility would, in
10 fact, be facilities, and that's the end of my part. I
11 think you're up, John.

12 MR. MUSSER: Good evening everyone. Thanks
13 for coming. It's nice to see a little bigger crowd
14 this evening. Nevertheless, we've had good dialogue
15 and I'm sure we'll have the same this evening. My
16 role here tonight is to really review with you the
17 actions that have been taking place over the course of
18 this year. We have had a lot of discussion of what we
19 ought to be doing in terms of communicating with one
20 another, but we haven't had a lot of discussion about
21 the activities that have been taking place in the
22 field, and that's my role here this evening.

23 These interim actions that we refer to are really
24 items that are part of our operating license that we
25 were given by DEQ in June of 2003 and they're also

1 consistent with what's included in the Framework For An
2 Agreement, that Steve referred to. The primary
3 objective of this activity is to minimize contact with
4 soils that exceed or are thought to exceed the 1,000 ppt,
5 ATSDR dioxin/furan action level. By action, ATSDR
6 describes that as such activities as surveillance or
7 research or health studies or exposure studies or
8 community education, any combination of those. In
9 fact, as you'll hear me talk about these interim
10 actions, you'll note that pretty much all of those
11 things are being addressed at one level or
12 another. These interim actions are taking
13 place in either public or high use areas and
14 designated residential properties both in Midland and
15 along the Tittabawassee River.

16 The so-called Priority 1 areas are 103
17 properties, and Steve mentioned or showed you on the
18 map where those neighborhoods are located in Midland.
19 103 properties proximate to the Dow plant and
20 downwind of the Dow plant, and then again along the
21 Tittabawassee River, we have 351 parcels that have
22 been identified as Priority 1 fundamentally because
23 they are properties that had been inundated, either
24 the yards or the structures, during that March 2004
25 flood. Those interim activities in those areas need

1 to be completed by the end of this year, and I think
2 we're going to be on schedule and have that work
3 completed before snow flies, if snow fly doesn't happen
4 until November. Also, we are obligated as part of the
5 license to also address Priority 2 areas in 2006, and
6 those are the properties along the Tittabawassee River
7 that flooded less extensively than the Priority 1
8 areas.

9 We also have been doing extensive work in the
10 parks along the Tittabawassee River, including
11 Freeland Festival Park, Imerman and West Michigan. In
12 the case of the residential IRAs, the work that we've
13 been doing has included a contractor, AKT Peerless
14 of Saginaw, visiting with homeowners and discussing
15 their particular needs in terms of a list of interim
16 response actions that we've identified here,
17 including interior house cleaning, that's dusting,
18 cleaning of carpets and furnace ducts, replacing
19 furnace filters, installation of covering materials
20 for any exposed soils in the yard, and other
21 reasonable measures agreed to by residents and Dow and
22 approved by DEQ as circumstances have warranted.

23 To date, we have a participation rate in Midland
24 of about 80 percent. About 22 percent of that group
25 have actually had the work completed, but I'm assured

1 by our friends at AKT Peerless that we're moving
2 forward quite rapidly now and the work will be
3 completed by the end of the season here. I've got my
4 numbers transposed here in terms of the Tittabawassee
5 participation rate. It's actually 56 percent, and
6 again, here we will continue our best efforts to make
7 contact with homeowners and try to have that
8 discussion with them. We've had a few people that
9 have rejected the offer to do any of these activities
10 on their properties. I think we've had 29 along the
11 Tittabawassee River and 11 in Midland.

12 As for the parks along the Tittabawassee River,
13 we haven't done all of this work in all of the parks,
14 but I think generally speaking these are the things
15 that we have been doing. I believe we have installed
16 hand wash stations in all of the parks. There has
17 been soil replacement or soil covering, reseeding in
18 the parks. In some cases, we've done some bank
19 stabilization to minimize erosion along the river
20 bank. We put woodchips down on pathways and in the
21 play areas or replaced soil. We've also in some
22 instances done some paving of asphalt and concrete
23 walk pathways. We've also -- in the case of Imerman Park --
24 we have plans to construct a staging pad for cross
25 country competitions, and also we have provided

1 funding for DEQ to post advisory signage in the parks.

2 In addition to these activities in the parks and
3 in the residential areas, we have been involved in
4 establishing various community information centers
5 throughout the area, and there's a list of where those
6 are located in one of the handouts that you were able
7 to pick up on the desk out front, and these
8 information centers in every case have relevant
9 information in them from MDEQ, from MDCH, from the
10 Department of Agriculture, and from ATSDR, and as
11 well, the Communications IRA includes this provision
12 for our funding the signage in the parks and in the
13 high use public areas, like boat docks.

14 Beyond the interim response activities, there's
15 quite a bit of research activity that's
16 underway. I think you heard about a fair amount of it
17 already, so I'm not going to dwell on it, but I want
18 you to be aware that there are numerous studies, I
19 think I counted 20, that were either underway or
20 completed. As the information from these studies
21 becomes available, it will be posted on the DEQ
22 website. Now there are studies that are being done by
23 DEQ, a number of studies that Dow has funded various
24 contractors to do, and some others that we funded that
25 are being done independent of Dow, like the Michigan

1 State ecological risk assessment and the University of
2 Michigan human exposure study. I'm sure you'll have some
3 questions after the fact here, so I'm going to sit
4 down now, and thank you again for your attention.

5 MR. SYGO: The purpose of my presentation
6 tonight is -- if some of you were here for the June 28th
7 meeting you're going to hear some of the same
8 information, but essentially, as many of you know -- Dow
9 and DEQ entered into a Framework For An Agreement which is a
10 process for both Dow, State and Federal governments to work
11 toward a final comprehensive resolution for the
12 releases that we've seen to the Midland,
13 Tittabawassee [River], the Saginaw River, and Saginaw Bay.
14 The purpose tonight is to really continue to gather
15 input on what would be proposed as an ongoing
16 community involvement plan for implementation of that
17 Framework, and comments that we receive tonight will
18 be used to tweak the public involvement process that
19 we've identified.

20 On the table tonight as you came in, there were a
21 number of brochures and a number of leaflets. One of
22 them is called the Summary of the Convening Meetings.
23 There's another one that talks about the ongoing
24 community involvement process, and then there's a
25 third one that talks about the CAC [Community Advisory

1 Committee] proposal, and those are the ones that I'm going to be
2 summarizing tonight. More detail, if you want, is located within
3 those particular documents.

4 If you recall, back in March and April, how time
5 flies, we had several convening meetings whereby we
6 invited people into meetings. We had four of them.
7 Basically, two were held here in the Horizons Center,
8 one in Bay City, and one in Midland, and the purpose
9 of those meetings was really to present what was in
10 the framework to these individuals and then to have a
11 discussion about what's the best way to deal with the
12 community involvement process associated with that,
13 and those were what we refer to as the convening
14 meetings, and in looking at the convening meetings and
15 summarizing the information from all four of those
16 meetings, several things stood out basically.

17 One was that people across the board were saying
18 information should be presented clearly and
19 unambiguously by both DEQ and Dow. Some of the things
20 that we were in agreement with was people were
21 indicating that, gee, we ought to be looking for one
22 source of information. We shouldn't have to read the
23 paper and see conflicting views. Some other things
24 they had indicated was making sure that we weren't
25 seeing those conflicting views. Dow would put out a

1 piece of information. We would contradict that or
2 vice versa, and people were upset in not seeing one
3 source of information that they believe to be
4 accurate.

5 Another item across the board was people were
6 saying we ought to use a variety of means to convey
7 information to the community. Historically, we've
8 been relying heavily on e-mails in conveying
9 information to what was formerly the Department of
10 Environmental Quality Citizens [Community] Advisory Panel.
11 What was suggested is that some people aren't into
12 computers. You might want to consider direct
13 mailings. You might want to consider newspaper
14 inserts. You might want to consider local cable
15 programs as part of the government channels that are
16 available in the area as well.

17 The third item that came across in all those
18 meetings was that people should have a meaningful
19 input into decisions about how the historical releases
20 will be addressed, and when people refer to that, they
21 anticipated some sort of stakeholders group that we
22 could work with or that would be readily available so
23 that we could get their information and get their
24 input on that. I think some of the conclusions that
25 people drew as a result of those meetings is that in

1 dealing with the stakeholders that they ought to be a
2 diverse group and represent the diversity of the
3 Tri-Cities community as a whole. Those groups ought
4 to be neutrally facilitated, so we'd have a neutral
5 facilitator that would be conducting those meetings.
6 That those meetings would have rules so that people,
7 again as this meeting today, people were respectful to
8 one another. We're dealing with a very emotionally
9 charged topic on either side, and there are times that
10 things tend to get out of hand, and that makes people
11 uncomfortable. Those meetings are to have some form
12 of an agenda. We're discussing specific topics that
13 are expected to be discussed at that meeting, and that
14 there should be some type of public comment periods at
15 those meetings so people have the opportunity to make
16 a statement, make a comment and get some questions
17 answered as well so that we're responsive to their
18 questions.

19 Some of the differences that people came up with
20 in terms of differences of opinions about going on
21 with this process, there were several of them in
22 particular. Some people thought there ought to be
23 separate stakeholder meetings. Some people thought we
24 might be better served by having three separate types
25 of stakeholder meetings, one maybe in the Bay City

1 area, one in Saginaw, one in Midland. Others thought,
2 no, we think it ought to be overall. This is a
3 watershed. What happens down the watershed starts
4 from upwards of the watershed. We'd be better off
5 having one concentrated stakeholders group basically.
6 Some people thought that stakeholders group should be
7 advisory in nature and they should provide advice to
8 both Dow and DEQ as part of the meeting process.
9 Others thought they ought to be decision makers, and
10 in some cases, you know, that provides some difficulty
11 from statute and regulations that we have to deal
12 with, and then finally some people thought it ought to
13 be a standing group that's always there to deal with
14 and we know where to go. Others thought it should be
15 completely open to the public. Anybody should be a
16 stakeholder if they want to be a stakeholder. There
17 are also some differences as to whether the meetings
18 ought to be videotaped and whether there should be
19 attribution to what people are saying, because some
20 people would prefer not to specifically speak up and
21 then be accountable to what they were saying in a
22 different venue as an example.

23 Well, what's ultimately got to make up the
24 ongoing community involvement process? We want to make
25 sure that both Dow and DEQ are relaying information

1 that's being gathered and providing that information
2 to the residents of the area and that we're also
3 getting input from the Tri-Cities communities in a
4 variety of ways based on the type of meetings that
5 we'd be conducting. That type of effort is really
6 intended to do a number of things, and I've got them
7 listed here. One, it's intended to share information
8 with the community so you know what the DEQ and Dow
9 are doing. It's intended to get some feedback from
10 the community so that we can utilize your information
11 and your input in a manner that would help us to
12 improve our decision making process at the State
13 level, and one of the other big items that it's
14 intended to do is start building some trust amongst
15 all the parties, because I think that's something that
16 is certainly lacking in this process, at least up to
17 now.

18 I think I mentioned at the last several meetings
19 that I've been at that if people are expecting that
20 this type of process and this clean up is going to be
21 done in a year or two, you're in the wrong room,
22 because it's going to take a significant amount of
23 time to go through this process and to really complete
24 the work that needs to be done as part of the
25 corrective action, and it may take many years. So I

1 think what I'm trying to say here is that this is
2 going to be a long term effort to resolve the
3 challenges that we all have that are caused by the
4 elevated dioxin and furan levels in the environment,
5 and if we're going to have that type of long duration
6 process, we really need to make sure that the people
7 that are coming to the meetings are committed to that
8 long-term process in the best way that's possible.

9 Both DEQ and Dow are committed to addressing
10 these challenges that will reduce potential exposure.
11 We've already started that process with the IRAs.
12 We're intending to make sure that we're protective of
13 public health and that the actions that will be taken
14 as part of the long-term remedies would benefit both
15 the environment and the economy, and then actively and
16 effectively involve the Tri-Cities community and their
17 interest in the future of this particular region.
18 We're not going to be able to resolve all the issues
19 comprehensively and in any type of finality without
20 the input of the community in terms of issues that
21 need to be faced. We really need the community's
22 input on that.

23 So given that, what we've done is we've taken the
24 information from the convening meetings and we've put
25 together a proposal for ongoing community involvement,

1 and that is outlined in the documents that you have,
2 considering this establishment of what we're calling a
3 Community Advisory Committee or a CAC. It's proposed
4 to act primarily as the focal point for that community
5 involvement. The CAC would be based upon and
6 expanded upon actually what was formerly the DEQ CAP,
7 [Community Advisory Panel] and that concept we had carried out
8 for about a year and a half. The intent of the CAC would be to advise
9 DEQ and Dow on specific aspects of the corrective
10 action process and to get some feedback from them as
11 to how things are progressing, what things might be
12 needing additional attention, what other types of
13 innovations might be able to be used.

14 Now the way we envisioned it, we felt that the
15 CAC might be represented by as many as 16 to 20
16 members, and roughly, we were thinking four members
17 from the Bay City Bay area, maybe four from the
18 Saginaw area, four from the Tittabawassee area, and
19 four from the Midland area. What we'd be looking for
20 is a commitment from those people to make sure that
21 they're making these meetings and that they're making
22 sure that they're participating in a way that's
23 representing the community. The intent would [be to] try to
24 have them serve for a two-year period and try to
25 stagger those terms so we could account for things

1 such as continuity of the process as well as providing
2 additional energy and additional vision basically to
3 the operation and utilization of that CAC.

4 One of the critical items in dealing with the CAC
5 is the selection process, how do you select a group
6 like this? We thought about, well, we could identify
7 an independent selection committee, and then some
8 people had concerns, how do you identify them, who are
9 you going to pick, who are the best people, who are
10 going to know how to represent the diversity of the
11 Tri-Cities community. Another way we thought about
12 was looking at applications in some fashion and trying
13 to suit the applications to the type of people. Some
14 people suggested, well, maybe just DEQ and Dow ought
15 to pick several members each and put them [on the CAC] that way.
16 So selection is an issue in and of itself on how do
17 you provide that diverse group and how you select that
18 diverse group.

19 What we propose would be that these CAC meetings
20 would be run by a professional facilitator, so again
21 that it's a neutral and balanced process. That the
22 meetings would be open to the public with an agenda,
23 as we indicated before, that has a specific
24 identification of what's going to be discussed that
25 day but also an opportunity for public comment and

1 questions as part of that meeting. The meetings would
2 have transcripts that would be produced by a
3 professional recorder, such as Natalie tonight, and
4 that transcript would be available on the website or
5 it would be available, if you don't have access to a
6 computer, we can mail those out.

7 One thing that I want to make sure that I made
8 clear is what we put together and what you had is the
9 proposal that Dow and DEQ generated together. In
10 fairness to the DEQ CAP, which had been operating for
11 a period of time, we thought the first thing we ought
12 to do, and we did this on June 28, is run this by the
13 DEQ CAP. They've been helpful over some period of
14 time. We wanted to get their input on what they
15 thought of that proposal. When we presented this to
16 them on June 28th, they had several comments. They
17 indicated, gee, once we went through the entire
18 process, and there are some more dealing with the
19 process itself -- which I'll get into in a second -- but
20 relative to the process, they thought it was too
21 cumbersome. They thought possibly 16 to 20 members
22 might be too limiting for such a large area if we were
23 looking at one individual stakeholders committee
24 basically, and they thought only having 20 people may
25 not be representative of the diversity that we're

1 seeing in the Tri-Cities community.

2 And one of the big things they also indicated at

3 that time was a concern about the way selection would

4 move forward. They were very concerned about having

5 some outside group making the selection process. I

6 think if they were looking at a CAC they'd rather see

7 the DEQ and Dow make the selections individually. As

8 part of that meeting -- by the end of that meeting I

9 should say, I would probably say that that group was

10 of a consensus anyway that rather than having a CAC

11 they would rather see town hall meetings that were

12 conducted every other month in a very similar manner,

13 have some sort of agenda, have it neutrally

14 facilitated, have the transcripts recorded, and

15 everything, and just move along in that fashion, and

16 possibly rotate the meetings between the Tri-Cities

17 area, maybe, you know, one month it's in Bay City, two

18 months later you'd have one in Saginaw, two months

19 later one in Midland. So that was basically their

20 reaction to the CAC process.

21 Well, in looking at that and trying to analyze

22 that just a little bit, there are probably some

23 strengths of having a CAC and there are some

24 weaknesses as well, and we were just looking quickly

25 to look at what some of the strengths might be, and

1 again, one of the things we're looking at is you'd
2 have some dedicated individuals for a specified time
3 frame, and it's good to have some sort of
4 organization, because when you go to a meeting, we run
5 into the issue of re-educating people all the time at
6 meetings. This way you'd have a group that was
7 engaged in the process over time and could immediately
8 respond to the issue and provide the input that we may
9 be looking for, and it would be an ongoing involvement
10 that would probably be very beneficial. Plus, you get
11 a synergy of working with a smaller group where you
12 have an opportunity to get a dialogue going that might
13 provide, you know, more innovative ideas about the
14 process that might be utilized.

15 The sense from some of the comments that we've
16 had regarding the CAC is that the CAC proposal could
17 be simplified, and again, it's something that we're
18 going to go looking for additional comments tonight,
19 and with the comments that we get tonight, as well as
20 the comments that we received last night and on
21 August 17th in Bay City, we'll be tweaking the
22 proposal to see what we're really going to come out
23 with, and that's basically where we are tonight, and
24 we'll be looking for your comments regarding the
25 proposal that has initially been developed.

1 Now in addition to the CAC as part of the ongoing
2 community involvement process, we had also called for
3 several other types of meetings. We called for
4 something called technical information meetings, and
5 our thoughts there were meetings such as we had with
6 Dr. Birnbaum last July in Midland. There might be
7 other technical issues that people have an interest in
8 that might be the bioavailability study, the
9 probabilistic risk assessment study that will be
10 coming up, and those types of meetings might be more
11 appropriate for people who have a technical interest
12 in the process.

13 The other thing we talked about was something we
14 called periodic town hall meetings. It was something
15 that we anticipated we really want to get some input
16 from the community at large. We just don't want to
17 work with the CAC specifically or with technical
18 people that have a technical interest, but we want a
19 broader perspective on something, and the intent there
20 would be to put notices in the paper and again have
21 the community at large weigh in on specific issues.
22 There will probably be some period of time once we get
23 closer to some type of final agreement or a more
24 comprehensive agreement that we're looking for
25 finalization, as well as the Remedial Action Plan,

1 where we're probably going to be looking for some type
2 of public hearing process, but before we go to a
3 public hearing process, we're probably going to have
4 an intensified community dialogue which will provide
5 opportunities for questions and answers about what the
6 proposals are, and we see that more as what might be a
7 major milestone in the corrective action process, and
8 we also thought that there's going to be opportunities
9 for different types of information sheets and there
10 would be opportunities for group meetings at various
11 rotary clubs or professional groups or similar
12 organizations of that nature.

13 The meetings that we talked about, the technical
14 meetings, the town hall meetings, as well as the more
15 community at large meetings, all of these again we
16 would intend that they would be held as necessary and
17 called for by DEQ and Dow, again to present a variety
18 of topics. They would have a specific agenda with the
19 intent of receiving some type of feedback from the
20 public, as well as answering questions about what's
21 being presented. We would open them up to anybody who
22 wants to attend. Again they'd be run by a
23 professional facilitator so we're taking a neutral
24 stance in terms of having the meeting itself, and that
25 transcripts would also be transcribed and made

1 available again on the website or by mail for people
2 who would want that.

3 And with that, I'm going to turn it over to Chuck
4 to start the facilitated session.

5 MR. NELSON: I'm pleased to be here with you
6 tonight. What I'd like to do first if we could is
7 provide an opportunity for you to ask questions you
8 may have about the facility designation and the
9 explanation Director Chester gave or to ask about
10 interim response actions that Dow has taken and then
11 we'll go on to public input. Sir, go ahead.

12 AUDIENCE MEMBER: I was just really curious.
13 I mean, it seemed like before saying that you found a
14 certain level of dioxin above the 90 parts per
15 trillion on a piece of property going prophylactically
16 to say that the whole property was a facility seemed
17 to make more sense, because the one question I had
18 after Steve Chester was talking about only the area
19 that's tested, the question that came in my mind is,
20 what's the radius from the spot that it's tested?

21 I mean, are you doing like 6 inches, 6 feet? Are
22 you doing that point to the river? Are you -- I mean,
23 how is that determined to determine what part of the
24 property is a facility? If you're saying the whole
25 thing isn't and you've got one spot that tests let's

1 say 1000 or let's say 1200 parts per trillion, is it
2 that one spot, is it 6 feet around that spot?
3 MR. SYGO: When you look at what the
4 definition of a facility is, it's any area that
5 exceeds the generic criteria basically for direct
6 contact in this particular case, and so in the case of
7 the flood plain, I think what we're indicating is that
8 premised upon the 7 to 10 year flood plain basically
9 we had that digitized from photographs actually from
10 March of 2004. What we know is where that flood water
11 inundated the land we know that those areas have
12 contamination on them that certainly exceed 90, and in
13 most cases, it's well above 90 where it's been
14 repeatedly flooded.

15 What that means is those properties, although it
16 may not be the entire parcel, but those properties
17 where those flood waters were are likely facilities.
18 Now in the IRAs that were issued back in January when
19 the framework came out in the flood plain, there were
20 two scenarios. There were Priority 1's and Priority
21 2's. The Priority 1 properties were those priorities
22 where the flooding from 2004 actually came and it might
23 have surrounded the house or it came, we use 20 feet --
24 within 20 feet, I think, -- of the back porch of the house,
25 and our assumption is that those properties have

1 enough contamination on them where we're going to
2 consider them Priority 1, because people going outside
3 to try and enjoy any portion of their back yard are
4 likely walking into areas that are at or very near
5 1000 parts per trillion.

6 On the other hand, areas that flooded, but
7 because of the topography of the Tittabawassee
8 watershed, it might have been within a back portion of
9 their yard but not in their back yard. It might have
10 been, you know -- some of the lots are very deep. It
11 might have been that area closer to the river and then
12 the grade goes up. So it wasn't immediately available
13 to those residents. Those areas were considered
14 Priority 2, and Priority 2 was an indication that
15 again the property parcel itself is likely a facility,
16 but from a perspective of whether it's a facility or
17 not, it wasn't a direct -- an immediate concern to
18 exposure for those residents because they had room in
19 their back yards to enjoy their homes of some sort
20 without directly going into what the contaminated
21 soils would be, and that was the separation between
22 how we determined whether there was a facility or not
23 in particular on the inferences that we had.

24 There will need to be, specifically where this is
25 one of two items ultimately which will come up as part

1 of the Remedial Investigation Work Plan, either additional
2 sampling would need to be done on those properties to
3 specifically determine how contaminated it is, where
4 you'd have testing on those properties, or some sort
5 of presumptive remedy where there might be the
6 assumption it is contaminated. This is the way we're
7 going to take care of that so the contamination
8 doesn't impact on those residents.

9 AUDIENCE MEMBER: Well, basically what you
10 did is kind of over-answered the question. Let's say
11 you have a site that has a hot sample inside, what
12 you're calling the repeatedly flooded zone, does that
13 then mean that everything on that property that is
14 within that line would then be considered a facility,
15 or does that just mean that, gee, there might actually
16 be an issue here, but if we come in and cover things
17 over, it's going to go away?

18 MR. SYGO: Well, again, I think in that 7 to
19 10 year zone, we believe it would be a facility.
20 That's not to say that there may not be areas on the
21 parcel of property where because of the elevation that
22 you might have available there might be areas where
23 there is no contamination, but again, the only way to
24 really evaluate that to the level that you're talking
25 about, you know, what do you do with that property,

1 again, you either have to look at it presumptively or
2 you have to do a gridding on the property to
3 statistically evaluate how significant the levels are
4 that you're seeing on that property.

5 If you do a number of samplings and you're seeing
6 all those samples high, that would mean a high
7 confidence level that anywhere you sample on there the
8 sample is going to be a facility. On the other hand,
9 if the front part of the parcel doesn't have anything
10 and the back part of the parcel has levels, the
11 confidence is going to be a little bit different, and
12 that means you probably have some sort of line of
13 demarcation, but some of that's going to come out as
14 part of the longer term process to characterize these
15 areas.

16 AUDIENCE MEMBER: I see. You're basically
17 saying then for somebody that has like a sample done
18 on their property and that sample is above like say
19 1000 parts per trillion, what you're basically saying
20 now is that, gee, you might be a facility but you
21 might not, but we don't know how much of a facility
22 you are until somebody either comes in and tests or
23 somebody comes in and does remediation to cover it up?
24 So basically --

25 MR. SYGO: If they're coming in to do

1 remediation --

2 AUDIENCE MEMBER: -- a facility label has
3 almost lost its complete meaning.

4 MR. SYGO: If they're coming in to do
5 remediation, it must be a facility; otherwise, they
6 wouldn't be required to do remediation, and I think
7 what -- I think the question you're getting at, Bob,
8 is that, what portion of the property needs to be
9 remediated? Is that --

10 AUDIENCE MEMBER: I guess in a way what I'm
11 trying to get at is maybe what's the value of the
12 facility designation, because in your explanation, you
13 mention that a potential that somebody could come in
14 and -- I forgot the words you used. I am on cold
15 medication, but if you got a test, it's high let's
16 say, without throwing out any numbers, the DEQ isn't
17 going to declare it a facility unless there is either
18 more testing or --

19 MR. SYGO: We don't declare it. If there's
20 levels that are over the generic standard of 90, by
21 definition of law, it's a facility, and to the extent
22 that we have samples that would show or allow us to
23 infer that properties exceed that number, then those
24 properties are facilities. It may only be portions of
25 the parcels, but portions of those parcels would be

1 facilities.
2 What that means then is if there's enough
3 knowledge and information that you know it's a
4 facility for that reason, there are disclosure
5 requirements, if you're going to sell your land, to
6 let people know that, you know, you have enough
7 knowledge based on the information that's been
8 provided that you have contamination on your site. So
9 there's a requirement to comply with Part 201 for that
10 disclosure, and there's a requirement under the real
11 estate laws, too, to provide a disclosure that your
12 soils are contaminated. Just like when you buy a
13 home, you sign off as to whether you have lead in the
14 home, whether you have asbestos in the home and
15 probably a few other things.

16 AUDIENCE MEMBER: I've got a home up for sale
17 now and we have to do notice. I guess maybe I'm
18 belaboring the point. If you find a property that has
19 a hot value that's half up the property and the
20 property next door hasn't been tested and they have
21 the same topographical situation, is it then
22 reasonable to assume that if the one site is a
23 facility that the next site probably very well is as
24 well?

25 MR. CHESTER: Let me try to approach it

1 differently. The directive is a directive to staff on
2 how they communicate with the public, and if you think
3 of that in those terms, taking the Tittabawassee flood
4 plain, the frequently flooded area where we have a
5 fair amount of data that indicates anywhere you test
6 within that frequently flooded area is well in excess
7 of 90 parts per trillion and you're a property owner
8 that has a five acre lot and there is an acre sliver
9 of that property in the frequently flooded area, all
10 the policy is really saying is as a DEQ employee it is
11 appropriate to be able to communicate with you, the
12 property owner, that this part of your property is a
13 facility based on the inference that can be drawn from
14 the data, but it would not be appropriate and we're
15 asking our staff not to assert that the remainder of
16 the property is a facility based on the existing data.

17 Now as a property owner and under the law,
18 because Jim's right, we don't declare or designate
19 properties facilities, you always have the
20 opportunity, or the liable party does as well, to say,
21 you know, we don't agree with the data along the river
22 or we don't think the property at least in this area
23 is contaminated, and additional sampling could bear
24 that out, but you've got to think in terms of the
25 directive as really a directive to our staff in how

1 they're going to communicate the existing information
2 that we have, and I think you're asking the question
3 that really takes on a level of complexity that goes
4 beyond just the communication piece, because in a
5 bigger piece of property, you're going to have to do,
6 as Jim suggested, some representative sampling to
7 ultimately determine what part of that property is or
8 is not contaminated.

9 MR. NELSON: We do need to move on. This
10 could go on for a real long time. There are some
11 other folks that have input. I'd like to have their
12 input, too, sir.

13 AUDIENCE MEMBER: I live on what's called
14 Cavanaugh Lake, what's left of Cavanaugh Lake, and
15 it's south of State Road, east of River Road and north
16 of M-46, and what I was wondering is, Dow has never
17 addressed it, DEQ hasn't addressed Cavanaugh Lake, and
18 the property was tested at over 1000 per trillion,
19 3000 on the other [side] and 250 behind my house, and I'd
20 like to think that, oh, the DNR or Dow Chemical, or
21 Environmental Protection Agency or DEQ could get
22 together and look at this property to figure out what
23 they want to do with it, if it should be filled, if it
24 should be dug out and put back to a blue piece of
25 water, but right now, it's a facility. Thank you.

1 MR. SYGO: Well, again, in response to your
2 question, I think that's part of this process of
3 corrective action, and at some point in time at the
4 end of this year, Dow's required to submit to the
5 Department a Remedial Investigation Work Plan, and as
6 part of that Remedial Investigation Work Plan,
7 additional work along the Tittabawassee River, in the
8 Saginaw and so on will be conducted, and I think it
9 would be at that point in time -- that the likelihood
10 would be good -- that that particular area would be dealt
11 with at that time. At this point, I don't know that
12 we have enough information to say what the appropriate
13 remedy is for your particular parcel of property.

14 AUDIENCE MEMBER: Thank you.

15 MR. NELSON: Other questions. Sir.

16 AUDIENCE MEMBER: I've got one question. If
17 my property hasn't been tested and I go to sell
18 tomorrow, do I have to disclose it as a facility?

19 MR. SYGO: Again, I think that would depend
20 if your property is in those areas that were
21 identified as part of the IRA.

22 AUDIENCE MEMBER: You haven't given us an
23 overall view of all those properties in those areas,
24 so I couldn't tell you that, but I do believe that I
25 have it. Now I've gotten a letter, the last blue

1 pamphlet from you, this one, and my house is in the
2 100 year flood plain, but not necessarily do I think
3 it's in the 7 or 10. So what I'm asking, I want to
4 sell my house tomorrow, do I have to disclose it as a
5 facility, yes or no?

6 MR. CHESTER: You have to make a decision.
7 Under the law, it says as a property owner you have
8 to -- if you know or have reason to know your property
9 is contaminated, so you have to have some basis, you
10 have to ultimately make that decision. If you do know
11 or you have reason to know, then under the law, you
12 need to do two things. Number one, don't exacerbate
13 or make the contamination worse, but then if you go
14 and you do sell, under Part 201 and the Seller
15 Disclosure Act, you have to make a disclosure to a
16 prospective purchaser. I don't know your property.
17 Just because you received our fact sheet does not mean
18 we're telling you your property is a facility.

19 AUDIENCE MEMBER: Well, the first time, you
20 know, we bought a piece of property on the corner of
21 Weigel and Swan Creek back in 2000, we got your first
22 thing from you. It basically said, whether we read it
23 wrong or not, that we have to declare our property a
24 facility if we want to sell it. Now I'm asking you,
25 because you're not telling me one way or the other,

1 and all I want is one straight yes or no, and as far
2 as, it hasn't been tested. There's been no testing in
3 that general area. I don't believe that there's parts
4 per trillion on it. If we're going to get water,
5 we're getting it from -- not the Tittabawassee, we're
6 getting it from the Shiawassee River that comes across
7 that plain. We're not getting it from the
8 Tittabawassee. So as far as I'm concerned, I
9 definitely don't think I have any dioxin on my
10 property. So do I say -- if I sell my property
11 tomorrow, do I have to disclose it as a facility?
12 That's all I want to know.

13 MR. SYGO: I think if you can assert that
14 you don't believe your property's been flooded with
15 Tittabawassee River waters, particularly last March, I
16 would say I don't think you need to disclose, because
17 from a prospective -- we know that the 100 year flood
18 plain is well beyond the areas that we believe are
19 facilities, and that was one of our errors in sending
20 the document out back in 2003, in June of 2003. There
21 were areas -- they sent that to everybody in the 100
22 year flood plain, and there are areas within that 100
23 year flood plain that never see the light of
24 Tittabawassee River sediments, and those areas would
25 likely not be facilities because you're not being

1 contaminated with those materials that are being moved
2 downstream of the Tittabawassee. We've looked at the
3 Shiawassee. We're not seeing the levels of dioxin and
4 furans in the Shiawassee that we're seeing in there.
5 We've looked at the Cass, as well as the Flint River,
6 too, I believe, and we are just not seeing those kinds
7 of levels.

8 AUDIENCE MEMBER: So I don't have to -- so
9 if I sell tomorrow, I don't have to disclose it, is
10 that what you're saying?

11 MR. CHESTER: In a former life, I used to be
12 an attorney, and I've got to say that, because this is
13 the way the law works, even if we had a discrete soil
14 sample from your property, okay, that showed it was
15 contaminated, ultimately, the decision is yours. Do
16 you know or do you have reason to know? I mean,
17 that's the way the law is written. You ultimately
18 have to decide. It's a good faith decision on your
19 part.

20 MR. NELSON: Let me move on here and make
21 sure -- ma'am, you're next.

22 AUDIENCE MEMBER: He has the exact question
23 I was wondering, but on here, it said Dow is required
24 to notify owners of Property 1 and Priority 2. Now
25 what was said earlier tonight, because I'm part of the

1 100 year flood plain, really downplays that, and it
2 sounds like it's more in the last 10 years, unless
3 your property has been tested, I guess I would think,
4 no, mine is not contaminated because nobody has
5 notified me. I don't know, you know, this side of me
6 or that side, so I guess I want a clear conscience
7 that my property is not contaminated.

8 MR. SYGO: Well, maybe this provides a
9 little bit of clarification for some, but for Priority
10 1 owners on the Tittabawassee River, you would have
11 already received some type of letter from Dow
12 indicating that they want to address your exposures.
13 If you got one of those letters, you're probably a
14 facility then. If you didn't get one of those
15 letters, what we need to remember is, there is still
16 this Priority 2, and I believe letters are to go out
17 for that particular issue by, I'm thinking, early
18 2006, and the intent there is to send a survey out
19 with it to those Priority 2 property owners to see how
20 they use that property that's some distance from their
21 home, you know.

22 If they use it on a regular basis, there may be
23 some things that are going to have to be done there to
24 again deal with the exposure controls on that property
25 as well. So, you know, those particular parcels have

1 been identified and/or are in the IRA, and I believe
2 those are on our website. If you know your parcel
3 number, you can go onto our website to identify
4 whether or not your homes are within that area by
5 looking for your tax parcel basically, only Priority 1
6 only. Priority 2 isn't on there.

7 MR. NELSON: Sir.

8 AUDIENCE MEMBER: One question I have
9 concerning the facility statement what Steve opened up
10 is that basically it's a property that probably was
11 flooded in 2002 and that meets at least or equals 90
12 parts per trillion, correct, sir?

13 MR. CHESTER: Are you talking about the
14 example of the Tittabawassee flood plain?

15 AUDIENCE MEMBER: No. A facility. When you
16 first opened up your presentation, you defined your
17 facility. You said it had to be equal to or greater
18 than 90?

19 MR. CHESTER: The generic (residential) standard is 90,
20 yes.

21 AUDIENCE MEMBER: That would be part of the
22 clarification for a facility area, right?

23 MR. CHESTER: If you're above it.

24 AUDIENCE MEMBER: So my question is, to
25 date, there's 22 miles of Tittabawassee River, how

1 much to date has been identified and characterized as
2 being contaminated 90 parts per trillion or greater?
3 How many of these areas have you identified, how many
4 in the future have to be identified, and how is Dow
5 going to come across, and maybe not 100 percent
6 completely identify all of these, but how are they
7 going to give us some credence and confidence that
8 they have identified all these properties that are,
9 you know, at least 1000 for their immediate response
10 actions and when they come around the second time to
11 identify these 90 parts per trillion or greater? Have
12 these been identified to what percentage and how far
13 will they be in the future?

14 MR. CHESTER: Jim's going to have to address
15 the part that asks what's been done up to today. With
16 respect to what needs to be done in the future, this
17 work plan is going to be developed and submitted by
18 Dow at the end of the year, a plan in which Dow will
19 propose to the Department for the Department's
20 approval how they will, in fact, determine the scope
21 and character of the contamination, in other words,
22 how are they going to determine how and where
23 contamination might reside that exceeds 90 parts per
24 trillion. So that would be their plan, and we're
25 going to wait until December to see what the proposal

1 is. How much data has been gathered to date, Jim, if
2 you want to talk to that.

3 AUDIENCE MEMBER: Will there be more soil
4 testing done?

5 MR. SYGO: Let me tell you what we've done
6 to date. Clearly, there's been some sampling in the
7 river for the sediments themselves, but I believe in
8 the Tittabawassee system, and maybe the upper Saginaw
9 included, there's been some 600 samples taken, and you
10 need to recall that while that sounds like a lot of
11 samples, we're talking about a 22-mile stretch of the
12 flood plain, and so quite honestly, that's not a lot
13 of samples, but the types of samples we try to take
14 were transects through the flood plain, and you saw
15 some of that data earlier tonight.

16 Based on that data up to now, Dow hasn't done a
17 lot of sampling. They've just recently completed some
18 sampling in the Imerman Park area and in the Smith's
19 Crossing area, and we're still looking at that
20 information, but up to now, as part of the IRA process
21 and the interim activities response action plans, what
22 was done is we tried to look at presumptive issues
23 basically, and the presumptive issue in this case
24 based on the 600 samples and transects that we had
25 through the river and correlating that with the 7 to

1 10 year flood that we had last March, we overlaid our
2 sampling over the 7 to 10 year flood digital photos
3 that we had and then overlaid all that over the 100
4 year flood plain, and we concurred, as well as Dow
5 concurred or they wouldn't have entered into this
6 process, that if you were in that repeatedly flooded
7 area of 7 to 10 years, you were likely going to be a
8 facility.

9 So those were the areas, and we identified all
10 the specific properties in those areas first, and
11 those are the ones that are listed -- if the water
12 came right up to the homes, they're listed in the IRA
13 in terms of the tax parcel numbers. Those are the
14 ones they're addressing first to make sure the
15 exposures are reduced in some fashion, and that's
16 what's being conducted up to this point in time.

17 AUDIENCE MEMBER: So as far as to date, the
18 facilities statement, where is that aimed as far as
19 legislation when you hear of Moolenaar, Camp, Goschka
20 a couple of weeks ago bashed the DEQ, referred to
21 you guys as lipstick on pigs, and are they going to
22 gut this facility statement before you even have a
23 chance to do any constructive work in identifying
24 these properties?

25 MR. CHESTER: Well, the lipstick on pigs

1 comment I found very offensive.

2 AUDIENCE MEMBER: I did, too.

3 AUDIENCE MEMBER: I did, too.

4 MR. CHESTER: Let me tell you a little bit

5 where I think we stand, and I don't know what

6 ultimately will happen, but we did, in fact, pursuant

7 to Representative Moolenaar's request, put together

8 this directive for staff, and we did share it with

9 both he and Senator Goschka. My own personal

10 impression was they thought this was a good thing, but

11 Representative Moolenaar honestly didn't wait for us

12 to finalize the proposal. He submitted and introduced

13 legislation, as did Senator Goschka on the Senate

14 side, that would do some things that quite frankly we

15 think are ultimately harmful for property owners, as

16 well as for brownfield redevelopment in the State of

17 Michigan.

18 We commented on that legislation negatively for a

19 number of reasons. Let me share with you two of the

20 greatest weaknesses that we see. Number one, it's

21 common practice for us to have liable parties put

22 together what's called a sampling plan where they

23 literally grid out an area that they need to test to

24 determine if it's ultimately contaminated, and we then

25 review that proposal and approve it and then they go

1 forward. If, in fact, Moolenaar's bill becomes law,
2 what he says is essentially you cannot have a
3 residential property be considered a facility unless
4 there's an actual sampling point from that property.
5 What that will mean is that liable parties and
6 nonliable parties, because Governments often do clean
7 ups, we do clean ups on orphan sites where there isn't
8 a deep pocket, a company, a liable company to ask to
9 do the clean up, that will drive up the cost of
10 sampling significantly, and we will spend a lot more
11 time on analytical cost and investigation when we
12 really don't need to do that for any scientifically valid
13 reason. That's money that's ultimately going to be
14 taken away from the clean up process.

15 Let me tell you the other reason why I think it's
16 bad for homeowners. Right now one of the things that
17 people forget to talk about under Part 201 is it does
18 provide protection to homeowners whose property has
19 been contaminated, and it does that by placing the
20 duty firmly on the liable party to remediate property
21 that's been contaminated by the liable party and is
22 considered a facility. If, in fact, property is no
23 longer considered a facility without analytical data
24 but let's assume you're in a neighborhood or you're
25 along the Tittabawassee frequently flooded area and

1 you believe or have reason to believe your property
2 probably is contaminated, the liable party -- if it's
3 not considered a facility, the liable party doesn't
4 have any obligation to do anything with respect to
5 that property.

6 So I think that's a real danger to that
7 legislation, and we actually had a number of different
8 issues that we have with it. The legislation did work
9 its way through the House and it's now in the Senate
10 for action. I can't tell you where it's going.
11 Frankly, we don't think it's necessary.

12 MR. NELSON: Let me -- sir, you had your
13 hand up earlier.

14 AUDIENCE MEMBER: I got a question, DEQ,
15 where did you get the 7 to 10 year flood date? I get
16 flooded out, not completely, but water within 20 feet
17 of my property, not 7 to 10, sometimes every 4 years,
18 2 years, depends on how much water comes up north.

19 MR. SYGO: Well, again the 7 to 10 year
20 flood is kind of a designation based on, you know, the
21 elevation of water that comes in every year.

22 AUDIENCE MEMBER: It floods in '98 just like
23 it did in '86.

24 MR. SYGO: What we're saying though is
25 that -- what that line represents --

1 AUDIENCE MEMBER: What happens if I get
2 water next year within 20 feet of my property?

3 MR. SYGO: And if you get that on a repeated
4 basis, then it's likely that your property is in that
5 area. What I am --

6 AUDIENCE MEMBER: I know it is.

7 MR. SYGO: If you look at -- it says the 7
8 to 10 year flood plain. All that does is really
9 indicate the elevation it's going [to].

10 AUDIENCE MEMBER: My whole property
11 according to the map is under water.

12 MR. SYGO: Then you're probably in what
13 would be referred to as a 1 to 2 year flood plain, but
14 all we're saying is that's where the line seems to be.

15 MR. NELSON: There was somebody over here.
16 Sir, go ahead.

17 AUDIENCE MEMBER: Is it the intent of the
18 CAC to handle matters like this crisply so it can be
19 presented sort of boiled down and summarized in a
20 meeting? There's a lot of problems here that are
21 individual. They're taking a lot of time, and one of
22 the merits I see to a CAC, it could refer to these
23 first and give them an opportunity to think through
24 the answers to the questions.

25 MR. RUSWICK: Chuck, let me try to handle

1 that. You know, we in this Department of
2 Environmental Quality have a fair number of skills to
3 do a lot of things, but sometimes one of those skills
4 is not necessarily talking to people at a level that
5 they can understand, and I think we've seen a little
6 bit of that demonstrated here tonight. One of the
7 purposes of the Community Advisory Committee would be
8 to help us understand how we can communicate better
9 with people. So if we present information and they're
10 going, we don't really understand this, you need to
11 give us this information in this way, that would help
12 us learn to communicate better. So you're precisely
13 right. To some extent, it can act as a test for us to
14 help us figure out how to talk to people in a way that
15 we communicate better.

16 MR. NELSON: Before we go on, I saw both of
17 you, I want to talk about how we're going to segue
18 into discussing the Community Advisory Committee and
19 public input processes, but I don't want to leave, if
20 anyone has specific questions on interim response
21 actions. I'd like to finish that off now so we can
22 get more into the community input process, and I don't
23 want to miss anybody's specific questions on those two
24 topics. So yours is more about community input, is it
25 not?

1 AUDIENCE MEMBER: No, it's not.

2 MR. NELSON: Fire away.

3 AUDIENCE MEMBER: John, this question is for

4 you at Dow Chemical. Has Dow taken a position on this

5 facility legislation?

6 MR. MUSSER: No.

7 AUDIENCE MEMBER: I'm asking simply because

8 I would say how it could increase costs for Dow if

9 you're required to test every piece of property.

10 MR. MUSSER: We really haven't taken a

11 position on it. Quite frankly, we've had our hands

12 full dealing with the interim response activities and keeping

13 things moving forward on the framework.

14 AUDIENCE MEMBER: Thank you.

15 MR. NELSON: Any other questions on these

16 two items before we go?

17 AUDIENCE MEMBER: I'm curious -- of the work

18 plans that are being developed, will it include a

19 resampling cycle? Because as you know, this is a

20 dynamic system. When it floods, the [undue?] waste, the

21 low lands, the toxicity of the soil seems to be moving

22 around. So we're basing everything as we talk today

23 on sampling that was done last year or the year

24 before. It's already changed. So to say today that

25 someone is a facility won't necessarily, you know, be

1 true after the next flooding. So I'm just curious.
2 Will the work plan address that or are we working off
3 the 2003 data for the next 50 years?

4 MR. MUSSER: Let me take a stab at it from
5 our perspective I guess. One of the activities that
6 we're involved in right now that we've contracted is a
7 company called Limno-Tech who has the expertise and
8 technology in understanding what's going on during
9 these flooding events, in other words, what's
10 happening with the sediments that are in the river,
11 and what happens when flood waters interact with flood
12 plain soils, and how do they move around if they do
13 move around. So Limno-Tech is one of the main
14 resources that's being employed here to try to
15 understand that so we can make an informed decision
16 about what is the right way to address the situation
17 for the long-term. So that's the short answer to a
18 fairly complex question.

19 AUDIENCE MEMBER: I understand that you've
20 already received a number of those reports from them,
21 and from looking at it superficially, it seems to
22 indicate that it is confirmed that it is moving around
23 and it is reseeding the flood plain.

24 MR. MUSSER: I would say that there's a
25 number of these studies that have been determined. I

1 don't know to what extent that's been analyzed.
2 That's out of my league to make a judgment about what
3 it says and what it doesn't say at this point, but
4 whatever has been shared with DEQ is on the website,
5 and to the extent that that might inform you better,
6 that's a place where you can get that information.

7 MR. SYGO: The studies are on the website,
8 and you know, everybody can view those. I don't think
9 we've taken a position one way or another yet. I
10 think again this is something where I describe this as
11 it's very early in the process. I think we need a
12 great deal more information to make conclusions of
13 that nature. One of the items that I think we're
14 going to want to see is some studies that are going to
15 look in soil columns as well to see what level the
16 deposition is really there. We know that in some
17 areas in Freeland where we did some testing at one of
18 the water mains that were being installed we saw
19 levels as far down as 3.7 feet. That's pretty
20 significant deposition before you've hit something
21 under 90, and I'm not saying the entire flood plain is
22 that way, but again, I think there's more
23 characterization that needs to be known about the
24 flood plain before we can answer questions of that
25 nature.

1 MR. NELSON: Any further questions then
2 about interim response actions or about facilities?

3 AUDIENCE MEMBER: This facility issue seems
4 like it's being dragged out so Dow will not step up as
5 a good neighbor and take care of the issue that's at
6 hand. So it seems like the DEQ is trying to do their
7 job for the public and they're being lambasted by
8 people out there. That I guess you are doing a good
9 job if they go to the paper and say those things about
10 DEQ that they're not doing things for the public.

11 MR. NELSON: Any response?

12 MR. MUSSER: I guess if I heard you right,
13 ma'am, you know, I think there's more than a little bit
14 of evidence that Dow is trying to do the right thing,
15 and we're moving things forward as fast as we can.
16 We've invested thus far, mainly this year, a little over
17 \$35 million trying to understand what would be the
18 most appropriate approach to this issue, and you know,
19 we haven't had any occasion that I can recall where
20 we've been dragging our feet here. We're actually --
21 actually, the last set of samples that we took we paid
22 two times the cost so we could get them more quickly
23 than they were required by DEQ. So I guess I object a
24 little bit to the characterization that we're dragging
25 our feet somehow.

1 AUDIENCE MEMBER: When General Motors
2 contaminated the Saginaw River, it was brought out.
3 They cleaned it up. They stepped up. They cleaned it
4 up, and it wasn't over a long period of time. I've
5 been coming to these CAP meetings for quite a long
6 time, and it still seems nothing's happening except
7 just treading water, treading water, and it seems
8 like -- I know it's going to take a long time but --
9 because it's a big long stretch all the way out to the
10 Bay now, but there are corporations and companies that
11 step up and take care of the problem quicker.

12 MR. NELSON: We had another comment or
13 question over here. I'd like to hear from folks who
14 haven't said anything to make sure you have a chance.

15 AUDIENCE MEMBER: I'm just curious. With
16 the Priority 1 areas and the dusting and the
17 resurfacing of soils, when that floods again, is DEQ
18 responsible to make Dow redo all the resurfacing and
19 dusting of homes and so on and so forth once it
20 floods?

21 MR. SYGO: That's something that's
22 specifically written right into the IRAs for the
23 Priority 1 areas. If those homes flood again, Dow has
24 an obligation to go in, if it gets into the home, they
25 have to clean out the home again. If it gets into the

1 back yard, you know, they may have to again reseed
2 areas and remove any of the sediments that are
3 resulting from the deposition on those properties. So
4 that was accounted for as part of the IRA if another
5 flood came while this process was moving forward.

6 MR. NELSON: Sir, go ahead. You're a new
7 one. Go ahead.

8 AUDIENCE MEMBER: I just want to make a
9 comment that I think there's going to have to be a lot
10 more testing done. Where our house sits on the
11 Tittabawassee River, it's not in the 100 year flood
12 plain at all. The actual house itself is way up high
13 on the hill. If the DEQ tested our property right off
14 the back porch or the porch, we've got 242 parts per
15 trillion up high on the hill. We've got 1200 or
16 whatever down below, but it's up there, too. We don't
17 know why. I think there's got to be a lot more
18 testing of the whole general area rather than just the
19 10 year flood plain or whatever.

20 MR. SYGO: The only thing I can mention is
21 that we know that there are, what we'll call, some
22 anomalies out there. There are sometimes where you're
23 in that 7 to 10 year flood area and it's low, but
24 there are times that you're seeing numbers where we
25 might have done some testing and it's high. What

1 we're finding out is some people may have historically
2 moved soils from the flood plain to build their homes.
3 That's one example of how you might get higher
4 contamination in an area that's outside the 100 year
5 flood plain where you're seeing low numbers within it.
6 What we're seeing is sometimes there might be a
7 structure that shadows that area so that you don't get
8 the type of deposition that you might have normally
9 expected.

10 And again, a lot of this still comes in with
11 understanding and knowing, you know, how the
12 Tittabawassee flood plain works basically, and there's
13 still a great deal of information to find out. To say
14 that the Department or Dow would be responsible to
15 test everything outside of the 100 year flood plain is
16 a pretty broad statement. I don't think we can do
17 that, but where we have suspicions for one reason or
18 another where we know as a result of discussions or
19 issues of that nature that soils might have been moved
20 and there's some sort of evidence to show that it's
21 been moved, long term, you know, there might be other
22 areas outside of that, that might need to be tested.

23 AUDIENCE MEMBER: I was speaking
24 specifically of the homes right along the river there.

25 MR. NELSON: Folks with new questions who

1 have not?

2 AUDIENCE MEMBER: I just have one question
3 and it kind of comes from Kathy. Those 103 properties
4 in Midland that are designated Priority 1, if they're
5 not in the flood plain, how did they become
6 contaminated? Airborne?

7 MR. SYGO: Well, we're talking two separate
8 issues here. You're talking an issue where there
9 might have been historical releases to the river, you
10 know. It might have been turn of the century or
11 whenever. So it went down the river as waste water
12 from Dow, had contaminants in it, settled out in the
13 river, river then contaminates the flood plain. The
14 other issue we're dealing with in Midland, Dow also
15 operates, well, now I believe, one hazardous waste
16 incinerator, but historically, they operated some tar
17 combustors for combusting materials. As part of
18 the combustion process, dioxins are also generated.
19 So the emissions that came out historically from those
20 operations were deposited through air deposition in
21 the veneer soils in the City of Midland in
22 various areas. That's a little more difficult to say
23 that, you know, specific areas are at some level,
24 because air deposition isn't as readily consistent as
25 deposition in water basically. So there's more

1 information.

2 Now the other side of that coin is a clean up of
3 that nature is somewhat easier because you're dealing
4 with an area that has just a small amount of
5 contamination at the surface. It's easier to deal
6 with because you haven't deposited 4 feet of sediments
7 over 20, 30, 40 years, whatever. You have that
8 veneer layer that you have to deal with.

9 MR. NELSON: Other questions?

10 AUDIENCE MEMBER: Yes. I'd like to ask why
11 -- in the Dow Framework that you talked about -- the upper
12 Saginaw River that's going to be dredged is not
13 addressed in that Dow Framework?

14 MR. SYGO: Well, I'm trying to understand
15 the question. There is a section in the Framework
16 that indicates that Dow has the opportunity to the
17 extent that it's consistent with State and Federal
18 laws to construct a facility similar to what the Corps
19 of Engineers is proposing in Zilwaukee Township. As
20 I'm sure you know, they could have a similar operation
21 for their dredging operations. We haven't gotten into
22 the specifics of that yet, primarily because we really
23 don't know how much sediments they would need to
24 dredge yet. Those are part of the studies that would
25 be going on. We haven't characterized the

1 contamination -- not only in the Tittabawassee but in the
2 upper Saginaw yet either -- that would probably need the
3 most dredging, and until we know the volumes that
4 you're dealing with, we wouldn't know what size
5 property we would have to deal with to even locate a
6 facility or where that would have to be located based
7 on possibly where most of the dredging is going to
8 occur.

9 AUDIENCE MEMBER: You ignored my question.
10 My question was, why is the upper Saginaw River not
11 being addressed in the Framework?

12 MR. SYGO: It is.

13 AUDIENCE MEMBER: No, it's not.

14 AUDIENCE MEMBER: It is not.

15 AUDIENCE MEMBER: The lower portion is.

16 AUDIENCE MEMBER: But the upper Saginaw
17 River that's going to be dredged and the facility that
18 is chosen in Zilwaukee Township for the dredge spoil
19 site, the upper Saginaw River spoils, is not addressed
20 in the framework.

21 MR. SYGO: All right. This is a matter of
22 terminology then.

23 AUDIENCE MEMBER: The Saginaw River flows
24 north, so guess where the Tittabawassee dioxins and
25 poisons go? They go to the Saginaw River.

1 MR. SYGO: When we refer to the upper
2 Saginaw River as part of the Framework, we are
3 referring to the area upstream of where the navigation
4 channel starts in the City of Saginaw. So it's
5 roughly -- roughly from the 6th Street turning basin
6 up to the confluence of the Tittabawassee River. So
7 when we talk about the upper Saginaw, that's what
8 we're referring to. When the Corps is talking about
9 the upper Saginaw, they're talking about the area from
10 the 6th Street basin down to roughly right around the
11 Middle Grounds area, and that's what the Corps is
12 dealing with as part of -- you know, part of this is
13 really associated with the commerce of the Saginaw
14 river and the dredging of the navigation channel
15 specifically to remove those shoals basically that are
16 generated that doesn't allow ships to take a full load
17 up to the Saginaw area. So that's what the Corps
18 calls the upper Saginaw.

19 And from a perspective of what the Framework
20 addresses, the agreement -- I believe the agreement
21 says -- if it's not in the agreement -- I think it's
22 in the agreement. It says that Dow will treat the
23 residences along the upper Saginaw as they would treat
24 those residences on the Tittabawassee. Now in terms of
25 the flood plain, the flood plain of the Saginaw

1 rehabilitates very much differently from the
2 Tittabawassee, and quite frankly, that's an area again where
3 we need more data, and we just received some data from
4 a study that was conducted last October -- I think of
5 some of the flood plain soil studies that were
6 conducted-- and we still haven't had an opportunity to
7 put that data together and look at what it means yet,
8 but we do have some data coming in to show what are
9 the issues in the flood plain there, but the flood
10 plain doesn't flood in the Saginaw system the way it
11 floods in the Tittabawassee. So we don't know if like
12 a 7 to 10 year flood in Saginaw is a significant issue
13 at this point or not. Does that answer your question?

14 AUDIENCE MEMBER: No. Because I still don't
15 think the upper Saginaw River is addressed in the
16 framework.

17 MR. RUSWICK: Let me try. The Framework was
18 not designed to speak to everything to do with dioxin
19 contamination. It was designed to do some very
20 specific things. So the fact that it doesn't address
21 one particular aspect is not inconsistent with that
22 aspect being addressed at a later date. That is, the
23 Framework is meant to coordinate with other things
24 that are going on, including, for example, the
25 hazardous waste license that governs the operation of

1 Dow's facility. So the Framework is not meant to
2 speak universally to everything. That's why not
3 everything is discussed in there.

4 AUDIENCE MEMBER: That may be true, and I
5 will agree with that, but again, if they're going to
6 dredge the Saginaw River and put it in a flood plain
7 wetland area in Zilwaukee Township and you know the
8 contamination level of the Tittabawassee River, then
9 why can't the DEQ step up and stop this whole process
10 until it's tested properly and an environmental impact
11 statement is completed and things are done properly?

12 MR. RUSWICK: That's a separate question.
13 That is, how are we going to ensure environmental
14 protection associated with dredging, that's a separate
15 question. I don't think we're prepared to answer that
16 tonight, but there are steps underway to address that
17 question.

18 AUDIENCE MEMBER: I understand that, too,
19 but again, we keep getting ramrodded with no answers
20 at all of these meetings no matter what questions we
21 ask, and you can't tell me the Tittabawassee River is
22 not tied into the Saginaw River.

23 MR. RUSWICK: Oh, no. We know it is.

24 AUDIENCE MEMBER: So along with the fight
25 with the Tittabawassee people, we're going to argue

1 the issue of the Saginaw River, and it should all be
2 stopped. Everything should be put on hold until you
3 figure out what's going on all the way from the
4 Tittabawassee all the way to the Bay, because
5 otherwise, all that's stuff going to go into the Bay
6 and into the Great Lakes. Look at the Great Lakes
7 Task Force Committee, they've got 60 some million
8 dollars to spend on cleaning up the Great Lakes. If
9 we keep contaminating it, pretty soon one-fifth of the
10 water supply in this United States is going to be
11 contaminated, if you don't stop it soon.

12 MR. NELSON: I think you've been heard loud
13 and clear. I want to make sure, we still have to talk
14 about CAC versus town hall meeting things. I don't
15 want to miss that.

16 AUDIENCE MEMBER: If I could make one point.

17 MR. NELSON: Real quick.

18 AUDIENCE MEMBER: Jim, if you look at the
19 Framework behind closed doors, Dow and DEQ made a
20 deliberate decision to address the confluence of the
21 Tittabawassee and the Saginaw 5.5 miles out to the
22 turning basin. Then you skipped the entire dredged
23 area that's going to go into their back yard in
24 Zilwaukee and you chose to address the lower Saginaw
25 River from Cheboyganing Creek out to the Bay in a natural

1 resource damage claim. Now those decisions were
2 deliberately made. That whole section was left out.

3 MR. SYGO: Again, I think the natural --

4 AUDIENCE MEMBER: I'm asking why.

5 MR. SYGO: The natural resource damage claim
6 would include the entire stretch. It would include
7 the Tittabawassee.

8 AUDIENCE MEMBER: But the Framework says the
9 lower, Jim. That framework left out that entire
10 decision, and DEQ and Dow made that decision behind
11 closed doors with no explanation to the public. Why?

12 MR. SYGO: Okay. Well, and all I can say is
13 the license still, irrespective of the Framework --

14 AUDIENCE MEMBER: No. You keep punting the
15 Framework, Jim. You can't say irrespective of the
16 Framework.

17 MR. SYGO: But in the Framework as is
18 identified, the license trumps the Framework, they
19 still need to address the Saginaw River. I don't know
20 exactly how that's going to be addressed at this point
21 in time. The Corps is going to be doing a lot of
22 dredging as part of the upper Saginaw that they refer
23 to as the upper Saginaw. The question is, is that
24 going to be sufficient in terms of remediating that or
25 not? Those are decisions that will have to be made

1 down the road.

2 AUDIENCE MEMBER: They have concentrations
3 in that section in the Saginaw every bit as high as
4 concentrations on the Tittabawassee.

5 MR. SYGO: I understand.

6 MR. NELSON: Any other things -- I do want
7 to get to community involvement here. The community
8 is being very involved, and that's good, but I want to
9 get to that. Sir, you haven't spoken. Go ahead.

10 AUDIENCE MEMBER: I can see by this
11 meeting -- we live on the Green Point at the bottom of
12 the totem pole, and I don't want people from this
13 group making a decision what happens to our property
14 out there, and I don't think that you can round up 16
15 people like you talk about for this CAC to make a
16 decision. A DEQ and Dow agency's got to come to an
17 agreement. Go out to these people that's complaining,
18 dig 3 feet deep, and haul it away, and fill it in
19 again. That should satisfy them.

20 MR. NELSON: You've kind of brought us to
21 where we need to go, and that is, we need to talk
22 about the model of how we're going to move forward and
23 get community involvement. The proposal that DEQ and
24 Dow put on the table is a Community Advisory Committee,
25 16 to 20 members. You've all got it in your handout.

1 At the CAP meeting and some of the other meetings,
2 many people have advocated for the town hall meeting
3 format. What I'd like to know, how does this group see
4 it? What do you prefer? What do you see as the
5 strengths and weaknesses of each?

6 We want to make sure -- we made a commitment at
7 the CAP meeting, by the way, that we would go to Bay
8 City, Midland, and Saginaw and ask these questions.
9 That CAP meeting wasn't the end. This is the third of
10 those meetings that were promised giving everybody a
11 fair shot at it. So let's start, who would have
12 comment on this?

13 AUDIENCE MEMBER: I just think the town hall
14 meetings are definitely the best way to go, because
15 people that are available on the dates that are
16 specified for the meetings can go and voice their
17 opinions and everyone can be heard. It's just a
18 simple process of doing it. I think it's the simplest
19 way than trying to decide who gets to pick who is
20 going to be on what panel and who's going to pick
21 who's going to decide. It's, you know, extra stuff
22 that I don't think needs to be done. I think the town
23 hall meetings are definitely the way to go.

24 MR. NELSON: Other thoughts. Sir.

25 AUDIENCE MEMBER: I think we need to stick

1 with the town hall meeting the way it is, because I
2 think when you start picking that 16 to 20 -- people can
3 be manipulated, whether you think so or not, and you
4 won't -- you know, the only people that have anything
5 to lose in this whole thing are us property owners.
6 DEQ doesn't have to worry about that. Dow doesn't
7 have to worry about that, unless they get class
8 actioned and it comes out of their pocket, but it's
9 not the DEQ. It's me because I own property and it's
10 my property that isn't worth a darn.

11 MR. NELSON: Other thoughts.

12 AUDIENCE MEMBER: I would say if you're
13 going to do a community action [committee], rather than the 16 to
14 20, it might be a representative from each of the
15 various communities, townships along the Tittabawassee
16 and, as you call [it], the upper Saginaw who are affected,
17 and that way, particularly if they were appointed or
18 elected by their Township governments, you know, you
19 represent your own community, but that would be a way
20 and do the town hall meetings then too -- as
21 informational -- but what happens at these kind of
22 meetings time and again is three or four people or
23 half a dozen people seem to dominate the meeting and
24 others are still not getting their questions answered,
25 so a combination.

1 MR. NELSON: I want to emphasize to you, I
2 will do my utmost to recognize everybody.

3 AUDIENCE MEMBER: I'm not criticizing you.

4 MR. NELSON: I understand. We're working
5 really hard to do that. Sir, go ahead.

6 AUDIENCE MEMBER: I must apologize if I
7 dominated the earlier part of the questions. I was
8 trying to narrow down a specific thing and I took a
9 little bit too much time. I apologize for that. I
10 think the whole idea of the CAC is a bad idea, because
11 the last thing that this process needs is more
12 bureaucracy, and I think there's enough distrust from
13 the citizens to actually both parties, both Dow and
14 DEQ, to have any kind of constructive CAC. You're
15 going to have people saying there isn't enough
16 representation. Other people saying there's too much.
17 People saying I don't want that person on the
18 committee. Well, I don't want that person on it
19 either. We're not meeting enough. We're meeting too
20 often. Dow is dominating it. DEQ is not doing
21 anything. I don't see where there's anyway that you
22 can have anything constructive, and I think that's
23 maybe part of the reason why Dow seems to be pushing
24 for the CAC because it does allow them the leisurely
25 attitude of, we'll just leave it to the CAC and put it

1 to them, and then when nothing comes out, it kind of
2 just adds to the delays and more delays.

3 MR. NELSON: I understand what you're
4 saying. Sir, go ahead.

5 AUDIENCE MEMBER: I just wanted to point out
6 that there are really millions of stakeholders who
7 have something to lose, because let's not forget the
8 Tittabawassee River, the Saginaw River, and Saginaw
9 Bay are contaminated, and Saginaw Bay is part of Lake
10 Huron. Lake Huron is part of the boundary waters
11 between the United States and Canada, and all those
12 waters are waters of the State and waters of the U.S.
13 Really, it comes down to every citizen in Canada and
14 United States has something to lose on it. I come
15 from Flint and I'm here at this meeting because I
16 realize I have a stake in the Saginaw Bay.

17 MR. NELSON: Go ahead, sir.

18 AUDIENCE MEMBER: The town hall meeting
19 format is probably the best of both worlds, providing
20 it does this. It provides an agenda and subsequent
21 material is disseminated prior to the meeting, so when
22 people get here, they know what the discussion is
23 going to be about and they can appropriately frame
24 their questions in order to get the correct answers,
25 whether they get answers they like or not, whichever

1 way it goes.

2 MR. NELSON: Sir, behind you, go ahead.

3 AUDIENCE MEMBER: Personally, I think that
4 the town hall meetings provide an opportunity for
5 everyone in attendance to express their thoughts, and
6 I think that's something that's badly needed.
7 Obviously, here tonight, the diversity of the
8 interests that are being represented, you know, shows
9 the depth and breadth of the issue. However, I think the CAC
10 may also have a role in there from the perspective of
11 they could help coordinate the distribution of
12 materials to news media sources and assure that
13 there's some responsible reporting that's being done
14 and the information that's being released to the
15 general public and that's going out to media is
16 accurate, and I think that they have a role there.

17 MR. NELSON: Other comments. Ma'am, you,
18 and then you.

19 AUDIENCE MEMBER: I live in Bridgeport, and
20 since I moved here from Detroit, you could not swim in
21 the waters that have been contaminated for years. I
22 couldn't eat the fish, I couldn't swim there. So I think we
23 have to do something about this area.

24 MR. NELSON: Sir.

25 AUDIENCE MEMBER: I've only attended two of

1 these meetings, but my background has been associated
2 with mining companies, and one thing in the two
3 meetings that I attended always leading to
4 misunderstanding is people do not understand sampling,
5 and you're always dancing on the issue and you're not
6 getting your questions answered because none of us
7 have a feel, unless you've been there, of what's being
8 sampled and how significant the samples are.

9 A town hall meeting is not a place in my mind to
10 handle these issues, unless you bring a sampling
11 expert in, and to sum it up, in my experience, there's
12 an old Finlander up in the U.P., you got to respect
13 the day the mine played out. That's what you're dealing
14 with. Do you want to spend enough money to find every
15 milligram of whatever nasty is in there, and I think
16 there's a communication problem right there -- is that
17 baseline, what -- everybody says do something, and the
18 answer -- the question still is what, because I don't
19 know what's there, and I don't know how many samples
20 in 22 miles you took, but that ain't enough.

21 MR. NELSON: Sir.

22 AUDIENCE MEMBER: I am really in favor of
23 having an open town hall meeting situation. Myself
24 personally, I haven't belonged to any committees.
25 I've been coming to committees for the last four

1 years, and I think the people that are truly
2 interested in the subject are going to be here. I've
3 been to I don't know how many meetings. I see the
4 same faces. It's really too bad there isn't more
5 people here that have more interests and more input.
6 So I think a town hall meeting would be unbiased. It
7 would be open. There would be no stacked people one
8 way or another on these committees, but one thing I
9 would like to see, if it was DEQ or whatever it is, to
10 really urge every meeting that there is representation
11 from all the townships, municipalities along the whole
12 river, from Midland down to Bay City, at all these
13 meetings, so everybody is on the same page and gets
14 the same information, and I think those people's
15 voices from the municipalities would represent their
16 communities -- maybe as a whole or as a representative
17 group -- and would give some beneficial input. If you
18 had James Township showing up all the time, Zilwaukee,
19 Kochville, Freeland, whatever, I think it would be
20 mandatory to have these people show up at these
21 meetings.

22 MR. NELSON: Other comments.

23 AUDIENCE MEMBER: I think we should keep it
24 as a town hall meeting because of the amount of
25 stakeholders there are in this issue.

1 MR. NELSON: Other comments. Sir.

2 AUDIENCE MEMBER: I'd just like to say they
3 should be scheduled more in advance than they are. I
4 first learned about this meeting in the Township
5 Times, which came out last week, and my family has a
6 very busy life. I was supposed to be at a Boy Scout
7 planning meeting for this year's activities. I can't be
8 there because I need to be here, too. So, I mean, if
9 we had more notice, a month or something in that
10 order, where you can get it on your calendar and work
11 around your busy lives, more people would show up.

12 MR. NELSON: Let me just do a follow up with
13 you. If a schedule of meetings say every two months,
14 I'm picking it out of the air, was set for a year,
15 would that be more functional than just call one at
16 the end of one, we're going to -- the next one will be
17 this date, versus let you do an annual calendar?

18 MR. MUSSER: A number of people have told us
19 we don't want to have meetings to have meetings. You
20 better have something to talk about. On this issue,
21 things are constantly occurring. Obviously, there are
22 peaks and valleys in terms of what there is to report,
23 but would that kind of setup where you had a long time
24 horizon work better for you?

25 AUDIENCE MEMBER: Yes.

1 MR. NELSON: How do the rest of you feel
2 about that?

3 AUDIENCE MEMBER: Yes. I think for the
4 general public you just don't have the information
5 there. There was a little snippet in the Saginaw
6 paper, but you don't see enough notice -- more than once
7 in the paper -- or you don't hear it on the radio or on
8 television, once if you're lucky, a little bit probably
9 at noon. There's nobody around to watch these. I
10 think it should be on some public vehicle, radio,
11 television, paper repeatedly -- more often before they're
12 actually scheduled.

13 AUDIENCE MEMBER: I think the CAC gets
14 absolutely positively more cumbersome the more you
15 folks talk about it. So I'm absolutely in favor of
16 going to a town hall forum, and I agree, I think the
17 meeting should be set, however, so people have advanced
18 notice, but also perhaps, as Len said, put that agenda
19 out, you know, in the paper, get it out there in the
20 community and, you know, get the local media out and
21 venues on board to announce these meetings as public
22 service announcements or whatever and go that way.

23 MR. NELSON: Other comments.

24 AUDIENCE MEMBER: I believe in the open town
25 hall forum also. I don't believe that you should put

1 any citizen in any community on the spot to be on a
2 panel to make decisions for the rest of the group -- but
3 another suggestion, I agree with the gentleman over
4 there, is to get a representative or someone from all
5 the townships. If not the townships, at least the
6 county to be represented at all of these meetings so
7 that they're well informed of what's going on so that
8 we coordinate what's happening in the Saginaw River
9 along with the Tittabawassee, plus the Bay and the
10 Lakes.

11 MR. NELSON: One of the proposals -- so we
12 come back to what Jim talked about, town hall meetings
13 or CAC, for those meetings to move from Midland,
14 Saginaw, Bay City, that they're not always in the same
15 place so that folks don't have to travel quite a
16 distance, and perhaps targeted information about that
17 local area would be especially available at that
18 meeting. So things about the lower Saginaw River and
19 the Bay at the Bay City meeting. Obviously, other
20 information is needed, but target more of those local
21 interests.

22 Is that reasonable to you folks? Are you
23 comfortable with them moving to different places? It
24 does take some effort if you're in Bay City to shoot
25 up to Midland. It takes you a little while, not that

1 bad. I'm trying to ask if you're comfortable with
2 that, because that's in both proposals.

3 AUDIENCE MEMBER: But Saginaw Valley, you
4 know, is kind of centered to all of these communities,
5 and then we would have to move the same distance each
6 time instead of -- this is only a mile from my home
7 here. Bay City is 20.

8 MR. NELSON: And Bay City said they drove
9 20 miles, I know.

10 AUDIENCE MEMBER: Saginaw Valley is 10 miles
11 for everybody, a central location.

12 MR. NELSON: You're talking about pick some
13 central location.

14 AUDIENCE MEMBER: And have the same place
15 every time.

16 AUDIENCE MEMBER: That's a good idea.

17 MR. NELSON: Sir, go ahead.

18 AUDIENCE MEMBER: I support the town hall
19 meeting approach. I think it's the best and fairest
20 for everyone involved, but I'd also -- like you
21 mentioned earlier in the presentation, some of the
22 earlier meetings people have mentioned other ways to
23 get the word out, and one of them was television, and
24 I'm just curious. This guy's been here all night.
25 Who is he?

1 MR. NELSON: I think that's a fair question.

2 Sir, can you tell us --

3 MR. MUSSER: I can tell you. I asked this
4 gentleman and his firm to be here tonight just to
5 capture this for, you know, no particular reason, just
6 to have a company capture as we're doing with the recorder --

7 MR. NELSON: We definitely heard that --
8 community access television which did cover
9 Dr. Birnbaum's technical information meeting from
10 Midland's community cable television station -- did cover
11 that. What you're saying is, you'd like to see more
12 of that?

13 AUDIENCE MEMBER: I'd like to see it in
14 Saginaw.

15 MR. NELSON: Some of those things might be a
16 bit outside the DEQ or Dow's individual control.
17 Actually, citizens are more influential there, perhaps
18 saying, I want to see this. So I think that partially
19 goes back to cable subscribers and other folks. They
20 definitely heard it loud and clear.

21 AUDIENCE MEMBER: John, can we get a copy of
22 that tape?

23 MR. MUSSER: Sure.

24 MR. NELSON: Go ahead, ma'am.

25 AUDIENCE MEMBER: If there was a CAC, I

1 guess -- I don't know what happens with all the
2 information from this meeting, because we had such a
3 diverse, you know, amount of topics, but does Dow and
4 the DEQ sit down and say, these were the topics we
5 addressed, or is this just to give us information? Do
6 you do anything with what's brought up here?

7 MR. MUSSER: Absolutely.

8 MR. SYGO: In fact, my closing statements
9 will deal with that I guess, but we're trying to
10 get -- how can we make this a better process. If we
11 put a proposal on the table, we want to know what the
12 community thinks of that, not necessarily people that
13 had been involved with the process all the time, but,
14 you know, other people that are coming in, again to
15 try to get some diversity in this entire process.

16 AUDIENCE MEMBER: Because I think the CAC
17 would be easier maybe for you to deal with, but I
18 think this is more beneficial to the people.

19 MR. NELSON: John, you want to --

20 MR. MUSSER: Just real quickly, I agree with
21 what Jim had to say in general, and to address a
22 comment that was made earlier, you know, we're not --
23 Dow's not looking for any particular approach here
24 other than what the community wants. If the community
25 wants to have a Community Advisory Panel and it would

1 be represented that way, or to have a town hall meeting
2 that's facilitated and have an agenda, however you
3 want it, that's exactly what these meetings have been
4 all about is to extract that sense from the community.

5 We've had the same meeting in three different
6 locations. We've gotten a fair amount of consistent
7 input from the various groups. We're going to go
8 back, sift through all that we have. That's why we
9 have the recorder here to capture every comment, so we
10 can actually go through all of that information and
11 try to make some sense out of that, that is going to
12 suit the community interests at large.

13 MR. NELSON: We would note, too, this is on
14 the DEQ's website, right, the transcripts of these
15 meetings are there?

16 MR. SYGO: They will be.

17 MR. NELSON: The other thing, you have all
18 asked about data and information, and that website is
19 a rich place. Some here go through it. Others of
20 you, there's a lot there.

21 AUDIENCE MEMBER: First of all, these
22 meetings that we have been going to, when you say we
23 have gone through the three areas and we went through
24 the three areas a few months ago, you have received
25 the same input from people in the audience saying, we

1 want to have a town hall meeting. I just do not
2 understand why you keep -- all of you who have
3 capabilities of moving on with this subject -- I do not
4 understand why we have to repeat these meetings time
5 and time and time again for you to receive the same
6 information that we want town hall meetings.

7 We want to have something come from these
8 meetings, and I'm not seeing much of any movement.
9 I'm getting totally frustrated with people dragging
10 their feet. Additionally, if you have -- I agree with
11 the town hall meeting totally. I feel that the CAC
12 meetings would be stacked to benefit Dow, and I don't
13 know how open minded the DEQ would be. I need to have
14 somebody that is going to speak and answer my
15 questions and be objective and look towards our
16 concerns that we have of this hazardous contamination.
17 Town hall meetings are what I would go with.

18 MR. NELSON: All right. Any other?

19 AUDIENCE MEMBER: On that statement, I agree
20 with the town hall meeting concept. I think that
21 everybody here would agree that some efficiencies need
22 to be addressed, and you know, we hear the same
23 things, and I appreciate everyone's concerns, and it's
24 my concerns also, but I would also ask that we move.
25 I know it's going to be a long process. I'm not

1 saying, you know, it's going to be done tomorrow, but
2 we really -- I think everyone would really like to see
3 some progress being made as opposed to just slow. I'm
4 just really repeating what I just heard but I wanted
5 to reiterate that.

6 MR. NELSON: I think we've heard pretty loud
7 and clear about it. Go ahead.

8 AUDIENCE MEMBER: You know, usually, the
9 townships have a paper that they put out quarterly or
10 monthly -- or usually it's quarterly that goes to
11 everyone in that Township.

12 MR. NELSON: A newsletter.

13 AUDIENCE MEMBER: I know Tittabawassee has
14 that, and if there could be an update that could be
15 inserted in each one of them, that could be another
16 venue where you hit every property owner, that this
17 meeting is coming up on this date, don't forget to
18 come.

19 MR. NELSON: All right. If I don't see any
20 other further -- okay. Go ahead, and then I want to
21 let Jim close up.

22 AUDIENCE MEMBER: I think it would be a good
23 idea for DEQ and Dow Chemical to insist that our State
24 Representatives be here, Moolenaar and Goschka, and
25 have them answer questions that I have in my head

1 right now, and I think it would be a good idea for
2 them to stand up in front of the people that they
3 represent and answer the questions that we have to ask
4 them about this whole issue, and thus far, I've never
5 seen them at any of these meetings.

6 AUDIENCE MEMBER: You can write them
7 yourself.

8 AUDIENCE MEMBER: I know I can write them,
9 but they never answer. In fact, they don't even
10 answer my phone calls.

11 MR. NELSON: We've got to finish up here.
12 Sir, real quick.

13 AUDIENCE MEMBER: People have been
14 mentioning politicians now again, since politics
15 definitely drove this process during the Engler
16 Administration, and there seems to be an undertone
17 in the current process, and I know that some of the
18 politicians what their previous careers were. I'm
19 wondering if Mr. Musser would want to speak to some of
20 the politicians that are out there now whether they
21 have worked for Dow Chemical in the past.

22 MR. MUSSER: I would tell you that there are
23 a lot more politicians that haven't worked for Dow
24 than did, you know what I mean. I don't know that that
25 makes a difference.

1 AUDIENCE MEMBER: I've heard that Moolenaar
2 might have worked for Dow. I'm just really curious,
3 and also wondering if Dow would like to publish the
4 figures of the money that they give to these
5 politicians.

6 MR. MUSSER: It is published. It's in the
7 State records. It's there. I'll share it with you.
8 Call me up and I'll give you all of that information.

9 AUDIENCE MEMBER: I've been on the Secretary
10 of State's website trying to figure out who's gotten
11 what monies.

12 MR. MUSSER: Don't work so hard. It's all
13 published.

14 AUDIENCE MEMBER: I can get it for Federal
15 but not for State.

16 MR. NELSON: Let's wrap this up. Jim, if
17 you could, close the meeting. I think we've had a
18 minor explosion here in the LCD projector, so you'll
19 have to look at your sheets, and Jim will tell you.

20 MR. SYGO: Well, again, I mean, if we could
21 insist on Representatives and Senators being where we
22 want them, that would be a trick that I think we would
23 appreciate, too. Again, if you have that interest, I
24 would encourage you, as somebody said, make sure you
25 write them, e-mail them, let them know that you want

1 them at these meetings. They are notified of these
2 meetings. That's just something that's beyond our
3 control.

4 What's next? Well, one thing, I want to thank
5 everybody for the dialogue tonight. We got a lot of
6 good information today. We're going to continue to
7 take that information -- the information we've gotten
8 from the other two meetings, town hall meetings, that
9 we've had on this will be on our website as soon as
10 Natalie can get it to us -- and we'll run through it
11 quickly and look at it. We'll get them up on our
12 website so people have this information as well.

13 And we're utilizing the information from these
14 last three meetings to take the proposal that you
15 received tonight and tweak that based on the comments
16 we received here, along with the Midland meeting,
17 along with the Bay City meeting. We'll try to come up
18 with something that is going to try to meet what the
19 people's anticipations are and what the needs are and,
20 you know, recognize what both DEQ and Dow need as
21 well, but our whole intent is to try and make sure
22 that, again, we're providing information to the
23 community and that we receive community input to
24 consider during all the decision making processes that
25 are going to be going on in the future.

1 So once we're able to do that, and our hope is
2 that we'll have something -- we're hoping to target
3 this for the end of September -- that we'll try to have
4 something in terms of how we want to approach this
5 process of ongoing public involvement, community
6 involvement. We'll communicate that in the fashion
7 that, our expectation would be, we will put it in the
8 inserts in the local papers so that it will be
9 published in the papers. Those of you that we have
10 e-mails for, we'll also communicate it that way. You
11 need to recognize, we don't have everybody who might
12 have an interest in this on our e-mail list and not
13 everybody who has an interest in this has a computer.
14 So those are the types of messages we've been getting,
15 and we'll try to communicate the best that we can in
16 that fashion. We'll also use the media at that point
17 to make sure that we do communicate that.

18 In addition, we want to remind you that there are
19 results of many studies that are underway by both Dow
20 and DEQ. I know John referred to some of those
21 earlier in his presentation. We're going to continue
22 to report on those studies as they're available. We
23 hope to -- again, we'll continue to have meetings on
24 those so we can have dialogues on those -- and that
25 information is typically going to be placed on our

1 website first, and that's the first location that
2 we'll try to announce things, and we'll try to put
3 press releases out so people are aware when other
4 studies are coming out so they can start to look at
5 it.

6 AUDIENCE MEMBER: Jim, do you guys have a
7 criteria, you and/or Dow, at what point you will
8 release a particular study? I mean, because it seems
9 like DEQ has a penchant to wait. Dow tends to release
10 a lot of preliminary information. I'm just wondering
11 if you guys have some plan.

12 MR. SYGO: When something is submitted to us
13 by Dow, it goes on the website, essentially. Now I
14 know that -- you know, as you might understand,
15 there's been this concern over secrecy of data or
16 secret sampling, and I know in this last set of
17 samples that were taken by Dow they were very
18 interested in getting information out very quickly.
19 They contacted us. They ran some statements by us.
20 We agreed, and again, they made their commitment to let
21 people know we've got this data. The data isn't even
22 verified yet as I understand. It may be now, but it
23 may be close. Whatever the case, they wanted people
24 to know these samples have been taken. They've seen
25 this analysis thus far. We have not gotten -- well, I

1 take that back. We have gotten the transmittal of the
2 unverified data, so we do have that information, but
3 at this point in time, we're dealing with a number of
4 other things as well, but from our perspective, once
5 we get a study in from Dow, it will go on the website.

6 When we complete a study and we complete the
7 analysis of the data, we will put that on the website.

8 It doesn't do us a lot of good to put raw data on the
9 website, because it's difficult to interpret,
10 basically. It doesn't mean a lot to a lot of people.
11 Sometimes it doesn't mean a lot to us until we have
12 staff evaluate it. It's important that we try to keep
13 it open. We're trying to keep it transparent so
14 people will have that information if they want that
15 information. This will be [one of the] ways to achieve it.

16 Finally, we want to make sure that everybody
17 remembers in terms of, you know, timelines and goals,
18 one of the bigger aspects coming up here, and the year
19 is coming to a close here quicker than we all want to
20 see, but the Remedial Investigation Work Plan is due
21 and to be submitted by Dow to DEQ by the end of this
22 year. This is probably a fairly significant event in
23 this particular process because that will determine
24 how the study progresses in terms of the course of the
25 characterization that's necessary. A lot of

1 information being developed by Dow as part of smaller
2 studies they're doing will be incorporated into that
3 process.

4 So with that, again, I want to make sure that you
5 understand that the process we talked about tonight
6 was the proposal that we put together initially
7 dealing with the CAC and an ongoing community
8 involvement process. We carried that forward based on
9 the convening meetings that we had conducted back in
10 April and May. That's why it seems like we've had so
11 many meetings about the same thing. The convening
12 meetings initially, if you recall, were going to be by
13 invitation only. We ended up opening those up, and a
14 lot of people attended the same type of meeting. This
15 was supposed to be a broader community meeting.

16 I think we've seen some new faces here, and we're
17 glad to have you here, but maybe not as many new faces
18 we'd like to see to get that diversity, and we're
19 going to try to continue to work to get that diversity
20 in those meetings. Again, with that, I'd like to
21 thank you for your attention and cooperation, and we
22 wish you a safe drive home.

23 MR. NELSON: I just want to note that the
24 folks from both Dow and DEQ will stay for
25 approximately a half hour after the meeting. If you

1 have additional questions you want to ask them, feel
2 free. Thank you for your attendance. If you have
3 written comments by the way, you see on your
4 handout --

5 MR. SYGO: If somebody thinks of
6 something --

7 MR. NELSON: -- both electronically.

8 MR. SYGO: If somebody thinks of something
9 that you forgot to comment on, we'll continue to take
10 written comments by e-mail. Send them to Cheryl Howe,
11 and I think that's on some of the materials you have.

12 (Meeting was concluded at 8:45 p.m.)

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1 STATE OF MICHIGAN)
2)
3 COUNTY OF SAGINAW)

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7 I certify that this transcript, consisting of 92
8 pages, is a complete, true, and correct transcript of
9 the proceedings and testimony taken in this case on
10 August 25, 2005.

11

12 I also certify that I am not a relative or
13 employee of or an attorney for a party; or a relative
14 or employee of an attorney for a party; or financially
15 interested in the action.

16

17 August 31, 2005

18

Natalie A. Gilbert, CSR-4607, RPR

19

Notary Public, Saginaw County, MI

20

My Commission Expires: 8-10-06

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